



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

July 14, 2004

Mr. Robert Harris  
Millville Town Center, Inc.  
27 Atlantic Avenue  
Ocean View, DE 19970

RE: PLUS review – PLUS 2004-06-06; Millville Township Master Planned Community

Dear Mr. Harris:

Thank you for meeting with State agency planners on June 23, 2004 to discuss the proposed plans for Millville Township.

According to the information received, you will be seeking annexation and rezoning through the Town of Millville for an 815 acre assemblage of parcels extending from the south side of Burbage Road almost to Beaver Dam Road and from Windmill Drive to a line west of Powell Farm road.

Please note that as the site plan for the area is developed, additional comments from the State agencies could result. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that, if annexed, the Town of Millville will be the governing authority over this land; therefore, you will need to comply with any and all regulations/restrictions set forth by the Town of Millville.

This office has received the following comments from State agencies:

**Office of State Planning Coordination – Contact: Ann Marie Townshend 739-3090**

The Office of State Planning Coordination notes that the project area is primarily in the Investment Level 3 area of the 2004 draft *Strategies for State Policies and Spending*. The State Strategies document has been endorsed by the Cabinet Committee on State

Planning Issues and is awaiting final approval by Governor Minner. A small area on the western side of the site is reflected as Investment Level 4. In Investment Level 3 areas, the State's policies encourage well-planned, phased development that is sensitive to the natural resource issues on and around the site. In Investment Level 4 areas, the State's policies encourage the preservation of natural resources, rural character and agricultural viability. The project area is also mostly located within Sussex County's Environmentally Sensitive Development District. We understand from discussion with you that the small portion that is outside of the Environmentally Sensitive Developing Area (west of Peppers Corner Road and Powell Farm Road) will not be included as part of the master plan.

The Office of State Planning Coordination supports the idea of master planning this large area. With development pressures as they are in this area of coastal Sussex County, we believe that a good master plan can facilitate more efficient flow of vehicular, bicycle and pedestrian traffic; provide a more cohesive system of open space; and protect vital cultural and natural resources. We recognize that the Millville Township area includes a variety of both environmental and traffic constraints, and we encourage you to continue to work with our office and other State agencies to address these constraints in the master plan. We also encourage you to use the concepts described in our new publication *Better Models for Development in Delaware* as you move forward with the project's design.

**State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685**

It is indicated in Number 41 of the application that there will be federal involvement. The applicants need to be aware of Section 106 of the National Historic Preservation Act (36 CFR 800) that requires the federal agency to consider the impact of the project on historic resources. There is a cemetery on the property – west of Roxana Road (see map – red circle is approximate area).

There is a high probability for prehistoric and historic archaeological sites and there are potential historic properties throughout the subject properties (see map for approximate locations – highlights). It is recommended that you preserve the potential historic properties and develop around them, providing buffers (either open space or landscape buffering).

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

A traffic impact study (TIS) will be required for this project. DelDOT anticipates issuing a scope of work for that study very shortly. As results of the TIS, DelDOT expects requiring off-site improvements along Delaware Route 17 and local roads in the project area.

DelDOT noted that they recognize the observation from Sussex County Planner Richard Kautz that, as presently proposed, if the PLUS form exhibits are correct, the subject

development would be an enclave of Town land accessible only through the County and would create an enclave of County land accessible only through the Town. DelDOT's policy on municipal annexations is to oppose those annexations that would create enclaves. Consequently DelDOT would recommend that the subject lands not be annexed until this is remedied, either by having enough additional lands annexed first or by including those additional lands in the same annexation as the subject land.

DelDOT noted that they are encouraged that the developer proposes connections to Barrington Park and Fairway Village. There are probably other locations where stub streets to adjacent properties, yet to be proposed for development, would be appropriate. DelDOT recommends that the developer look for such locations.

The large areas of land that they control give the developer the ability to realign large portions of Substation Road, Powell Farm Road, and Peppers Corner Road. DelDOT has not determined that realignments of these roads are necessary, but that is one of the issues that the TIS will address. Further, DelDOT recognizes that the developer may want to shift these roads somewhat to suit their plans. To the extent that they want or need to realign these roads, the developer should begin working with our Subdivision Section in this regard as soon as possible. It is not necessary to wait for the TIS to be complete to start this process. An initial contact there would be our Subdivision Engineer, Mr. Drew Boyce. He may be reached at (302) 760-2165.

As plans for the development are developed further, the developer's engineer should contact our Subdivision Manager for Sussex County, Mr. John Fiori, regarding our requirements for the design of the site entrances. Mr. Fiori may be reached at (302) 760-2260.

**The Department of Natural Resources and Environmental Control – Contact:  
Kevin Coyle 739-3091**

## **Soils**

According to the soil survey update, the following soils were found in the immediate vicinity of the proposed construction and grouped on the basis of drainage class:

- Human altered with an undefined drainage class – Pits, sand, & gravel
- Excessively well drained - Evesboro
- Well Drained –Fort Mott/Henlopen complex
- Somewhat well drained- Runclint
- Moderately well drained- Pepperbox & Hammonton
- Somewhat poorly drained (potentially hydric) – Klej
- Poorly drained – Hurlock & Askecksy
- Very poorly drained- Mullica/Berryland complex

Pits, sand, and gravel is a classification given to soils that have been excessively excavated, filled, or graded; these soils have unpredictable site specific limitations. Evesboro is an excessively well-drained upland soil that has limitations associated with rapid permeability. Fort Mott/Henlopen complex is a well-drained upland soil that has few limitations for development. Runclint is a somewhat well-drained upland soil that has few limitations for development. Pepperbox and Hammonton are moderately well-drained upland soils that have moderate limitations for development. Klej is a transitional soil that contains both hydric (indicative of wetlands) and non-hydric (upland) soil components; development limitations range from moderate to severe depending on the water table occurrence. Hurlock and Askecksy are poorly drained wetland associated (hydric) soils that have severe limitations for development. Mullica/Berryland complex is a very poorly-drained wetland associated (hydric) soil that has severe limitations for development. A majority of the soils (~80-90%) found within the area defined by the comprehensive plan amendment, are wetland associated hydric soils.

### **Wetlands**

State wetland maps indicate the presence of extensive areas of farmed wetlands and Palustrine wetlands on this property. **A wetland delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be conducted. Once complete, this delineation should be verified by the Corps of Engineers through the Jurisdictional Determination process.**

Impacts to wetlands and other waterbodies should be minimized. Streets and lots should be laid out so as to not cross or intersect wetland areas or forested areas. DNREC recommends that vegetated buffers of no less than 100' be employed around wetlands and waterbodies. The developer and Town should strive to meet or exceed this recommendation throughout this development. To minimize potential homeowner activities within wetlands, no lot lines should contain wetlands, their buffers or other resources of conservation concern.

Impacts to wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

Certain drainage ditches may also be jurisdictional either under the U.S. Army Corps of Engineers Program or through the DNREC Wetland and Subaqueous Lands program.

**To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting.** These meetings are held monthly and are

attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-4691 to schedule a meeting.

**It is also recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as “prior converted wetlands.”** Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person is Sally Griffin—she can be reached at 678-4182.

### **ERES Waters**

This project is located adjacent to receiving waters of Inland Bays designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware’s “Surface Water Quality Standards” (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a “pollution control strategy” to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

### **TMDLs**

With the adoption of Total Maximum Daily Loads (TMDLs) as a “nutrient-runoff-mitigation strategy” for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited water body” can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware’s Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as “pollution control strategies.”

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns – that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed

less environmentally sensitive. In this watershed, these regions are demarcated as high and low reduction zones. The high reduction zone corresponds to the western portion of the watershed, and requires a reduction of nitrogen and phosphorus by 85 and 65 percent, respectively. The low reduction zone corresponds to the eastern portion of the watershed, and requires a reduction of nitrogen and phosphorus by 40 percent. **This project is proposed within the low nutrient reduction zone.**

**In order for the applicant to verify compliance with the TMDL mandate, a full nutrient accounting process known as nutrient budget should be prepared. The developer/consultant should contact Lyle Jones in the Department's Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget. He can be reached at 739-4590.**

### **Stormwater Management**

Stormwater management is an integral part of the site development infrastructure. The planning and design for stormwater management should begin early. The applicant is encouraged to contact the Sussex Conservation District as soon in the planning process as possible in order to receive their preliminary comments. Contact Jessica Watson at (302) 856-7219.

Attached is a map that shows the extent of tax ditch rights-of-way (ROWs), which is extensive, in the area.

### **Habitat**

The proposed project lies within five miles of a known Delmarva fox squirrel (*Sciurus niger cinereus*) population at the Assawoman Wildlife Area. Delmarva fox squirrels were listed as federally endangered in 1967 and are protected by the Endangered Species Act. They generally inhabit mature forests with open understories and wet woodlands, but can be opportunistic in their habitat choice. The proposed project area contains potential habitat for Delmarva fox squirrels and the following is required:

- Contact Trevor Clark (410-573-4527) of the US Fish and Wildlife Service for proper procedures prior to beginning work. A conference with the Service is required for any projects that will directly or indirectly impact habitat within 5 miles of the Assawoman Wildlife Area fox squirrel locations;

#### **AND/OR**

- Contact Trevor Clark (410-573-4527) of the US Fish and Wildlife Service for proper procedures prior to beginning work. Have surveys conducted to determine if Delmarva fox squirrels are present. In accordance with Delaware's fox squirrel site survey procedures, surveys must be conducted by a State approved fox squirrel surveyor two times between September and May: once in the fall, and again between March 15 and May 30. A list of qualified surveyors is available upon request. Please

note that surveys may confirm the presence of fox squirrels but cannot confirm absence.

It is requested that no invasive species be used in the revegetation of disturbed areas. A list of species considered invasive in Delaware can be found on the DNHP web site, <[www.dnrec.state.de.us/fw/invasive.htm](http://www.dnrec.state.de.us/fw/invasive.htm)>. It is further recommended that you use native plants and the DNREC botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

As the design phase of this project moves forward, it is strongly encouraged that the landowner(s) to consider preservation of the forest resources within the proposed area. Forests provide environmental services that benefit humans directly such as water quality protection (erosion control and sediment, nutrient, biological and toxics removal), climate moderation, aesthetic value and recreational opportunities. In addition, forests provide habitat for many species of plants and animals. Forest fragmentation resulting from development separates wildlife populations, increases road mortality, and increases “edge effects” that leave many forest dwelling species, particularly songbirds, vulnerable to predation. We would gladly assist the landowner(s) in evaluating these parcels for wildlife habitat. Many new incentive-based programs for wildlife management are available to private landowners through our agency. Please contact our office if the landowner(s) is interested in more information.

## **Recreation**

It is recommended that sidewalks be built fronting every residence. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities 2) provide opportunities for neighbors to interact in the community and 3) facilitate safe, convenient off-road access to neighboring communities, public mass transit stops, schools, stores, work etc.

If a trail system is planned, it is recommended that a series of stacking trail loops be designed with access points in each subdivision “pod” and connections to adjacent communities. Community trail systems with long continuous trails, perimeter-only trails, and systems with few access points, often go unused and neglected. For trail design/construction specifications, contact Susan Moerschel at (302) 739-5285.

## **State Fire Marshal’s Office – Contact: Kevin McSweeney 739-3696**

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal’s Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. **Fire Protection Water Requirements:**

- Water distribution system capable of delivering flows required by the State Fire Prevention Regulation
- Where a water distribution system is proposed the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories or more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

d. **Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.



e. **Required Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures. Our point-of-contact for future projects is Duane Fox, Asst. Chief of Technical Services, 302-856-5298.

**Department of Agriculture - Contact: Mark Davis 739-4811**

A forested buffer is required between the proposed subdivision and all adjacent properties in active agricultural use. In addition, a forest buffer should be maintained for those pre-existing residential properties and along all streams, wetlands, and river that border the proposed subdivision.

The developer should consider a diverse landscape plan that uses Delaware native tree and shrub species and encourages the “Right Tree for the Right Place” concept.

**Public Service Commission - Contact: Andrea Maucher 739-4247**

Tidewater currently provides water services in and around Millville. The parcels noted in Planned Community are not in a certificated area, although the application notes Tidewater. Tidewater will need to apply to the Commission for a CPCN prior to serving this area. Contact: Kevin Nielson or Andrea Maucher at (302) 739-4247.

Natural Gas/Propane: Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247

**Delaware State Housing Authority – Contact Karen Horton 739-4263**

DSHA recommends that the master plan include housing for low- and moderate-income households. The 2003 Statewide Housing Needs Assessment indicates that much of the housing in the coastal resort area, which contains this proposal, is outside of the affordability level of low- and moderate-income households. Just two percent of the owner units are affordable to extremely low-income households, and only six percent of the renter units are affordable to extremely low-income households.

**Department of Education - Contact: Nick Vacirca 739-4658**

The total number of units will determine the estimated number of additional students for the Indian River School District. Sussex County does not have school concurrence legislation at this time; however, it is recommended that the developer submit a package and meet with the school district to discuss this project.

If the development is approved and built, please use the following information for school transportation planning. If there are homes more than 1/2 mile from the nearest public road (outside the development), developers should plan wide enough streets so that large school buses can access and turn around (without backing) from the furthest areas within the development while picking up and dropping off students. Should there not be any sites more than 1/2 mile from the nearest public road, provisions for appropriate pick-up and drop-off at the development entrance should be included. The developer should work closely with the school district transportation supervisor.

In addition if any development is planned adjacent to school property, the developer should provide walking or bike paths for the use of multi modes of transportation.

**Delaware Emergency Management Agency – Contact: Kevin Kille 659-3362**

This area is outside the FEMA 100-year and 500-year flood zones, as indicated by reviewing FEMA Flood Insurance Rates Maps Panels 492, 511, and 515. However, an impact to public safety is foreseen by the implementation of this development. The location is within the area expected to be inundated by a category-1 hurricane, which has a 5% chance of occurrence in any given year. In the event of an impending coastal storm, residents would be expected to evacuate along route 26. Due to the large influx of residents and attendant motor vehicles, this would impact emergency evacuation plans. Developers should notify police, fire service, and emergency medical organizations serving the town of Millville and Ocean View of their intentions.

**Sussex County – Contact: Rick Kautz 855-7878**

A portion of the proposed planned community is inconsistent with the County and Town Plans because the parcels are outside the Millville Town Plan Amendment and outside

the Beaver Dam Planning Area. The proposal should also eliminate all possible enclaves resulting from annexation.

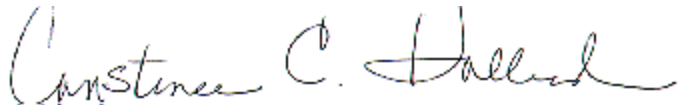
If any of the proposed development is not annexed, any application for development must be accompanied by the Report required by the Environmentally Sensitive Development District overlay in the Sussex County Zoning Ordinance.

The County Engineering Department states that: "Based on the request it appears that 5 of the parcels are outside or partially outside the Beaver Dam Planning Area, and will not be served. The parcels are 1-34 15.00 (16, 18, 19, 91, 109). The Sussex County Engineering Department has no schedule to provide service to this area." For questions regarding these comments, contact Chris Calio, Sussex County Engineering Department at (302) 855-7839.

**Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.**

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in dark ink, reading "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being the most prominent part.

Constance C. Holland, AICP

Director

CC: Town of Millville